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S.B. CIVIL MISC. APPEAL NO.860/2005.
(Smt. Rekha Dixit & Anr. Vs. Prabhuram & Ors.)

Date of Order :: 03.10.2006.

HON'BLE MR. JUSTICE DINESH MAHESHWARI

None present.

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Noticing that ever since this appeal was admitted on 02.09.2005, process fees and notices have not been filed and nobody being present; but a cognate matter having been referred at the foot of the memo of appeal, this Court passed the following order on 15.09.2006:-

> "This appeal was admitted on 02.09.2005 and notices were ordered to be issued, ever since then process fees and notices have not been filed. Twice over time has been granted by the Court on 24.02.2006 and 10.04.2006 to do the needful. Nobody is present for the appellant. Apparently, the appellants seems to have lost their interest in prosecuting this appeal. However, a perusal of the record shows that the Tribunal has made an award in the sum of Rs.8,01,440/- for compensation on account of accidental death of Manoj Dixit, 28 years in age with the directions for the apportionment of the award amount between the mother and wife of the deceased. This appeal has been submitted by the parents of the deceased and it appears from the endorsement made at the foot of the memo of appeal that another cognate matter has been filed.
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> Office shall place the same alongwith this appeal and list this matter on 19.09.2006."

The matter has been placed today along with the record of CMA No.1681/2004 and a perusal thereof shows that the wife of the deceased victim of vehicular accident filed the aforesaid appeal against the same impugned award dated 11.05.2004 seeking enhancement over the amount of compensation and the said appeal has been dismissed on 03.12.2004 in limine.

This appeal has been submitted by the parents of the deceased and it appears that essentially the apportionment of the award amount remains the matter of contention in this appeal. The Tribunal has made an award in the sum of Rs.8,01,440/- and after deducting Rs.50,000/- received under 'No Fault Liability' has taken the remaining amount of Rs.7,51,440/- to be apportioned in the manner the mother of the claimant has been granted Rs.1,51,440/- and the wife of the deceased the remaining amount of Rs.6,00,000/-. The Tribunal has observed that the mother of deceased was essentially dependent on her husband, appellant No.2 herein, and therefore, has allowed lesser amount to the mother.

This appeal was admitted on 02.09.2005 and if the appellants were interested in prosecuting this appeal and if they would have taken the steps to get the respondents served, may be, the aspect of apportionment would have been reconsidered in this appeal by this Court. However, it appears that the

appellants have lost interest in prosecuting this appeal and have, therefore, not submitted the process fees and notices ever since this appeal was admitted on 02.09.2005 despite repeated opportunities including opportunities granted by the Court on 24.02.2006 and 10.04.2006.

Nobody was present for the appellants on 15.09.2006 and today also nobody is present for the appellants. Requisites have also not been put in.

The appeal is, therefore, dismissed.

(DINESH MAHESHWARI), J.

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